



ABEC CONFERENCE 2019

WHITE PAPER

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2019**

THEME: BEST PRACTICES FOR BETTER BUSINESS; THE ROLE OF
THE PRIVATE SECTOR IN PROMOTING TRANSPARENCY &
ACCOUNTABILITY

A collective voice by business: to embolden the fight against corruption the private sector through Business Member Organizations/ Associations needs to be a strong, visible advocate on ethics and integrity issues in business collaborating with the public sector to promote ethics and integrity initiatives.

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Business ethics and integrity capacity building: SMEs lack knowledge on compliance issues and the capacity to set up compliance systems in order to create organizational policies that enable business and employees embrace a culture and practice of ethics and integrity. There is therefore a need to build knowledge and competencies amongst SMEs through training, creation of policies, procedure and development of ethical codes of conduct for employees.

08

Self-regulations: private sector should through Business Member Organisations lead the charge by ensuring that their members make deliberate choices to self-regulate by establishing appropriate structures, systems, policies and procedures to ensure compliance. Further companies need to undertake risk assessment measure, put proper governance mechanisms for monitoring and evaluation, adhere to ethical business dealings, undertake employee training, ensure acceptable organizational culture, create and implement organizational code of conduct, policies and regulations around bribery, and undertake system automation for enhanced organizational efficiency, transparency and accountability. BMOs should ensure members sign to code of ethics and call out those that do not adhere.

09

Protectionism: African governments are giving tax holidays to multinationals, whilst not doing the same for local businesses. African countries need to become selfish in protecting their interests as other developed countries are doing by having trade protectionism mechanisms. From the example of the Panama Papers where governments decided to tax fraudulent money/assets, by individuals and corporations who had put the money in safe tax havens , governments were asked to enforce tax judgment.

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Embrace Technology: automation by SMEs would ensure for accessibility and better quality data for improved policy decisions and greater accountability, while for government, automation will minimize the interface between public and private sector and mitigate graft in the demand and supply chain.

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Acronyms

ABEC	Africa Business Ethics Conference
CIPE	Center for International Private Enterprise
EACC	Ethics & Anti-corruption Commission
KEPSA	Kenya Private Sector Alliance
KNCCI.....	Kenya National Chamber of Commerce & Industry
MRS	Milestone Resource Solutions
MSMEs	Micro Small and medium-sized enterprises
SMEs	Small and medium-sized enterprises



About this White Paper

This White Paper summarizes the experience of the high-level regional conference Best practices for better business; the role of the private sector in promoting transparency & accountability, convened by Milestone Resource Solutions (MRS) in partnership with Center for International Private Enterprise (CIPE), Kenya Private Sector Alliance (KEPSA) and the Kenya National Chamber of Commerce & Industry (KNCCI) at Safari Park Hotel, Nairobi, Kenya on 25 – 26 June 2019.

Although Africa continues to make strides in many spheres of economic development, Africa's leap is constantly being curtailed by corruption. Despite efforts done in curbing the vice, Africa is making insignificant progress towards eradicating corruption. Whereas efforts being done across the region are laudable, more needs to be done especially by the private sector.

The desired impact of the conference was to see raising standards of business practice for efficiency to drive cross border trade, business growth, economic stabilities, and sustainability of Small and medium-sized enterprises (SMEs) and reduce business and financial risk also making Africa an attractive foreign direct investment destination.

The conference was part of the ongoing efforts around the Ouagadougou Declaration, developed in partnership with the World Movement for Democracy and the US Chamber of Commerce that brings together the private sector, government, and civil society to find new ways to address societal problems.



The objectives of the regional conference were:

- to provide a platform for businesses to have an open conversation about corruption;

- to bust the myth that a business has to be corrupt to grow;

- to mobilize the private sector to play its role in creating ethical enterprise;

- to highlight the importance of private sector working in partnership with the public sector in reducing graft;

- liaise with other global Anti-corruption agencies and learn from them i.e. their success as well as challenges and how they work with the business community;

- to use the platform to launch CIPE's Ethics First Initiative in Kenya;

- to create awareness on the ethical risks of corruption for business.

Overarching Themes & Recommendations

- 01 Role of media:** a free, independent and responsible media is critical in the fight against corruption, entrenchment of ethics and integrity, and access to information. A free press investigates and exposes cases of corruption.
- 02 Building a culture of ethics and integrity:** there is a need to build a business and institutional culture of ethics and integrity for greater profitability and sustainability.
- 03 Public education and awareness:** to lay a foundation for an ethical culture it is crucial that awareness of the effects of corruption be created and mainstreamed through our education system and ongoing awareness on corruption and its negative impact on society and business.
- 04 Supportive legislative landscape:** existing laws such as the Bribery Act 2016 and whistle blowers policies need to be reviewed to reflect current realities, they should be publicized widely and implemented expeditiously. Legislation should sanction penalties and sentences that are commensurate with the nature of corruption. Strong regulatory frameworks for archiving and documentation should be developed to secure evidence.
- 05 An independent, efficient, impartial, empowered and accountable Judiciary:** the critical role of the judiciary cannot be underrated. The Judiciary should therefore be sufficiently funded and given the independence that is enshrined in the constitution. Conversely it should efficiently and in a timely manner process matters, ensure penalties that are sanctioned are commensurate with the nature of corruption and administer clear corruption consequences including custodial sentences to the elite.
- 06 Collective action through a multi-sectoral approach:** due to deeply entrenched corruption in business practice a collective action approach that brings various players including the public sector, private sector and non-state actors through a working group set up was encouraged to find a common position and solution on intractable hurdles in the fight against corruption. An example of a multi-sectoral approach was given of Mauritius.

Role of Multi-sectoral Approach in the fight against Corruption

The government (County and National), civil society organizations (CSOs) and private sector have a role to play in creating public awareness on the Anti-corruption and Economic Crimes Act 2012 and the Bribery Act 2016. These two documents, if implemented will mitigate supply side corruption. Training programs on the importance of ethics, organizational policies, systems and procedures as indirect tools of fighting corruption should also be promoted by the sectors

The Ethics & Anti-corruption Commission (EACC) is intentionally sensitizing and creating awareness amongst the public on the Bribery Act 2016. The government institution is reaching out to learning institutions and introducing aspects of ethics and integrity that are supposed to build and nurture good behavior, morals, virtues, and values.

Moreover, the business associations have a huge role in advocating for ethics and integrity in business which will tame corruption from the supply side, for business sustainability. Corruption should be fought up and down the value chain to enhance competitiveness in businesses. Private sector organizations like KEPSA have come up with anti-corruption programs that work to entrench ethics and integrity in business.

Government was tasked to remove its discretionary actions through digitization to mitigate corruption, and introduce Competence Based Curriculum in schools and a framework on Ethical Business Management.

Collective action movement with academia, media, faith-based organizations and CSOs should be encouraged in advocating for policy and institutional reforms. The conference also noted that national leaders need to embrace political goodwill. Furthermore, the sectors were asked to adopt whistle blowing mechanisms.

Corporations, investors and individual citizens should establish voluntary standards of ethical behavior. Moreover, the development world should promote high standards of probity for their programs. The conference was in agreement that a multi-stakeholder approach was necessary in the fight against corruption through teaching ethics and virtues, legislation, implementation and enforcement of laws.

Executive Summary

This conference was the first of its kind to take place in Kenya at a regional level with a core focus on discussing ways of improving business ethics and promoting transparency and accountability in Africa. The ultimate objective of the conference was to share best practices, experiences, inspire people, build networks and take action on reducing corruption.

It served as a platform for discussing practical solutions for the private sector in Africa to combat corruption and explore opportunities for collaboration between the stakeholders represented, with a view of private sector taking a lead role. Government representatives, private sector, media, academia, and the civil society presented examples of good practice and lessons learned on business ethics.

Ethics and integrity were identified as the new frontier for SME growth and sustainability. Promoting access to information as a right of citizens, entrenching democracy, good governance, transparency, accountability, rule of law, promoting free media, political goodwill, collective action, constitutionalism, professionalism and institutionalism, independence of constitutional bodies like the judiciary, whistleblowing, and fast tracking implementation and enforcement of existing laws were seen as suitable solutions to the pandemic of corruption in Kenya.

Review of the existing legal and institutional framework in Kenya to combat private sector and government corruption were recommended. Further, the conference resolved there is need to ensure sanctions imposed against perpetrators of corruption are commensurate with the nature of corruption. Furthermore, investigation and judicious determination of corruption cases by courts of law was recommended.

Research on ethics, shared values, behavior and virtues to inform decision making, education, and public emancipation on adverse effects of corruption were also recommended. In fact, business membership organizations were encouraged to come up with mandatory codes of ethics for membership admission with a view of eradicating the vice.

Forms of Corruption Affecting Enterprises in Kenya

Corruption epitomizes weakness in our ethical standards and integrity. To the economy, it undermines development and public service delivery by diverting development resources to the personal gain of a few individuals; distorting public expenditure; discouraging foreign investors; reducing economic efficiency and slowing down administrative processes thereby making the implementation of government policies ineffective.

To businesses, corruption increases the cost of doing business; creates unfair playing ground and curtails efforts towards efficiency, effectiveness, improvement, and innovations that could further promote profitability of businesses.

The conference observed that the most prevalent forms of corruption are bribery, fraud, tax evasion, embezzlement, money laundering, collusion, misappropriation of funds, facilitation payment, patronage, extortion, abuse of office, breach of trust, favoritism and procurement related misconducts.

In the private sector, corruption is mainly concentrated in the procurement, finance and accounting, sales and marketing, and imports and exports areas of business operations. Specifically, corruption manifests itself through channels such as hiring of new staff based on individual connections as opposed to merit and competence. It also manifest itself through unfair compensation, cash payments, petty cash handling, invoice processing, falsifying financial books, concealing irregularities in the internal control systems, fees and commissions, discounts, provisions of free products, collusion with suppliers and abnormal pricing of work.

Five ways were identified in which corruption occurs in the NGO sector – through duplicate invoices, ghost employees, ghost participants, kickbacks and double dipping. To avoid this, donors were asked to ensure that recipients of funding have a strong government body with lines of accountability. The International Republican Institute (IRI) was said to promote integrity, transparency and accountability through an initiative known as the Accountability Lab, which uses the naming and shaming approach. So far, IRI has worked with young leaders in 14 countries.

The barriers for change were said to be institutional challenges; situational barrier; behavioral constraint and the business traction challenge. The conference agreed that without proper regulatory framework it will be difficult to bring to book corrupt individuals and they will most likely graduate to cartels.

Impact of corruption on private enterprises in Kenya

Micro-Small and Medium Enterprises (MSMEs) that are emerging every day in the millions, bear the brunt of corruption in Kenya and are losing up to four times more. Corruption causes deprivation of basic human needs, impairment of service delivery and business competitiveness, amplification of living costs, unemployment, and fermenting of populism and capitalism among other detrimental factors. Development gains realized.

Systemic corruption increases the cost of doing business, creates unfair competition, and curtails efforts towards efficiency, effectiveness, improvement and innovation that is crucial for profitability and sustainability of businesses. Corruption further erodes trust and confidence of citizens and investors with devastating long-term impact on any social and economic development gains realized.



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It was noted that the adverse effects of corruption are felt through poor service delivery and disincentive to provide quality goods and services. When corruption is rising, delivery of public services takes a nosedive, poverty levels increase, unemployment grows, the quality of health and education deteriorate and democracy gets stifled.

It was further noted democracy thrives in environments where corruption is low, ethics and integrity are high, constitutional institutions are independent and freedom of speech and media is guaranteed. Deliberate effort through collective action is imperative in elimination of corruption.

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